



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.O.P.(MD)Nos.4224 and 668 of 2014
and

M.P.(MD).Nos.1,1 and 2 of 2014

1. Ilyas @ Mohamed Ilyas
2. Rahamatullah
3. Riyas @ Janakiraman
4. Syed @ Glite Syed

...Petitioners in Crl.O.P.No.4224/2014

1. Ilyas @ Mohamed Ilyas
2. Rahamatullah

...Petitioners in Crl.O.P.No.668/2014

vs.

State through the Inspector of Police,
Taluk Police Station,
Dindigul,

(in Crime No.968 of 2008). ...Respondent in Crl.O.P.No.4224/2014

1. State through the Inspector of Police,
Taluk Police Station,
Dindigul
(in Crime No.968 of 2008).

2. M.Dhanasamy ...Respondents in Crl.O.P.No.668/2014

PRAYER in Crl.O.P.No.4224/2014: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records of the trial Court in S.C.No.185 of 2010 on the file of the learned Chief Judicial Magistrate Court and further set aside the alteration of charges under Section 307 r/w. 34 and 506(ii) of Chief Judicial Magistrate Court, Dindigul in S.C.No.185 of 2010 on 27.12.2013.

PRAYER in Crl.O.P.No.668/2014: Criminal Original Petition is filed under Section 407 of the Code of Criminal Procedure to transfer the Sessions Case in S.C.No.185 of 2010 on the file of the learned Chief Judicial Magistrate, Dindigul to any other Sessions Court in the southern Districts of Tamil Nadu.

For Petitioners
in both the petitions
For R1
in both the petitions
For R2
in Crl.OP.No.668/2014

: Mr.S.M.A.Jinnah
: Mr.K.Chellapandian, A.A.G.
Assisted by Mr.C.Ramesh, APP.,
: Mr.J.Antony Arul Raj

C O M M O N O R D E R

Heard both sides.



2. The learned counsel for the petitioners submits that the petitioners face trial for offences under Sections 120(b), 307 and 506 (ii) I.P.C. in S.C.No.185 of 2010 on the file of Chief Judicial Magistrate, Dindigul. The case was posted for judgment on 27.12.2013, on which date, the Court has altered the charges in respect of the third and fourth accused, to one of Sections 307 r/w. 34 I.P.C. and 506(ii) of I.P.C. and in respect of the first and second accused, to one of 307 I.P.C. In doing so, no notice was issued. The petitioners/accused were not given an opportunity to raise their objections. He further contended that the alteration of charges came to be made pursuant to interaction between the Presiding Officer and the prosecution agency. Under such circumstances the learned counsel for the petitioners informs that there is no fair trial. Informing so, the petition for transfer has been filed.

3. The learned Additional Advocate General submits that originally, the accused 1 and 2 were charged with offences under Sections 307 I.P.C. and the accused 3 and 4 were charged the offence under Section 506(ii) I.P.C. After examination of witnesses and before the pronouncement of judgment, the Court below has altered the charges as against the accused 3 and 4 to one under Section 307 r/w. 34 I.P.C. and also included the offence under Section 506(ii) I.P.C. against the accused 1 and 2. He further submitted that the allegation of bias made against the Presiding Officer is unfounded. It is further informed that now there is a different Presiding Officer in the Court concerned.

4. Considering the rival submissions, this Court in the light of Section 216 of Cr.P.C. and in the light of submission of learned Additional Advocate General that in any event, a fresh Presiding Officer is in-charge of the Court concerned, without going into the veracity of the allegations made against the previous Presiding Officer, dismisses these Criminal Original petitions. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(Per Admn)

/True copy/

Sub Assistant Registrar

To

1. The Chief Judicial Magistrate, Dindigul.
2. The Inspector of Police, Taluk Police Station, Dindigul.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.S.M.A.Jinnah, Advocate in SR.1433

+1CC to M/s.J.Antony Arul Raj, Advocate in SR.1710

Cr1.O.P.(MD)Nos.4224 and 668 of 2014
12.01.2015

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